



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: **29 August 2005**  
Comment Deadline: **12 September 2005**  
Corps Action ID #: **200532783**

All interested parties are hereby advised that the Wilmington District, Corps of Engineers (Corps) has received an application for work within jurisdictional waters of the United States. Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at [www.saw.usace.army.mil/wetlands](http://www.saw.usace.army.mil/wetlands)

**Applicant:** Crescent Resources  
Attn: Lud Hodges  
400 S. Tryon Street  
Charlotte, NC 29201-1003

**Agent (if applicable):** Newkirk Environmental, Inc.  
Attn: Steve Nichols  
P.O. Box 746  
Mt. Pleasant, SC 29465

## Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to Section 404 of the Clean Water Act.

## Location

The existing commercial development known as Air Park West is located on the east side of Sam Wilson Road, north of its intersection with Wilkinson Boulevard, in Charlotte, Mecklenburg County, North Carolina (35.24528°N, -80.98528°W) and is approximately 62 acres in size. The proposed impacts are located immediately adjacent to a retaining wall at an existing warehouse distribution center. The site contains stream channels with indicators of ordinary high water marks that are unnamed tributaries to Paw Creek. Paw Creek flows into the Catawba River, which ultimately flows into the Atlantic Ocean through the Santee-Cooper River in South Carolina.

## **Existing Site Conditions**

Before 2001, the site was predominantly wooded with a headwater stream channel beginning near the southwestern portion of the property. The stream channel on the property was determined to be intermittent by a Corps representative. The NRCS Soil Survey of Mecklenburg County, North Carolina maps the following soils: Cecil (CeB2 and CeD2) and Wilkes (WkD). None of the soils mapped by the NRCS Soil Survey are considered hydric in nature.

However, since 2001 the entire site has been graded for large-scale commercial warehouses. On July 10, 2001, the applicant was issued a Nationwide Permit #39, which authorized the placement of fill in 82 linear feet of important/intermittent stream channel and subsequent flooding of 340 linear feet of important/intermittent stream channel associated with the construction of a storm water detention facility. This permit also authorized the placement of fill into 211 linear feet of important/intermittent stream channel and 108 linear feet of unimportant/intermittent stream channel associated with the construction of a road crossing and building pad. The applicant avoided approximately 334 linear feet of important/intermittent stream channel through the construction of a retaining wall (Figure 3). The applicant also made payment to the North Carolina Wetlands Restoration Program in the amount necessary to restore 293 linear feet of stream channel in the Catawba River Basin (Cataloging Unit 03050101).

The retaining wall was built in 2001 as part of the general mass-grading contract for the development of Air Park West infrastructure. The applicant left an approximately 25-foot wide riparian buffer next to the stream channel. The building tenant noticed a crack in the parking area near the loading docks adjacent to the wall in December 2004. The crack has continued to increase in size due to vertical and horizontal movement of the retaining wall. Based upon a study by Earth Improvement Technologies, the instability is attributed to unsuitable soils and to a rise in the groundwater table due to the construction of the downstream storm water detention facility. As determined by soil and engineering tests, the underlying soil material cannot support a vertical wall of the existing height. The report provided by Earth Improvement Technologies concluded that the wall was in an active state of failure and would continue to degrade. Due to several large rainfall events in the spring of 2005, the vertical and horizontal movements increased which prompted the applicant to temporarily stabilize the slope in order to allow the tenant to continue to utilize the facility. The applicant has currently removed the top third of the wall and temporarily removed soil behind that portion of the wall.

## **Applicant's Stated Purpose**

As stated by the applicant, the purpose and need for the project is to stabilize the retaining wall in a manner that allows continued use of the facility. Since its construction, the wall has exhibited horizontal and vertical movement and will continue to do so until

the slope is properly stabilized. The applicant proposes to reduce the stress on the retaining wall by re-grading the area and lowering the height of the wall.

### **Project Description**

The applicant is proposing to impact approximately 239 linear feet of stream channel by reconstructing the retaining wall at a lower height. The applicant would remove the existing wall, re-grade the area to create a gentler slope, and then construct a new retaining wall at a lower elevation (Figure 4). Due to the proximity of the existing wall to the stream channel, the proposed work would require that the majority of remaining stream channel on the site be filled. Approximately 42 linear feet of stream channel will remain before the channel flows into the storm water detention facility. The applicant is proposing to offset impacts to stream channels by making payment to the North Carolina Ecosystem Enhancement Program in the amount necessary to restore 239 linear feet of stream channel. Due to the on-going instability issues associated with this project, this permit request is being announced with an expedited public comment period of 15 days.

### **Other Required Authorizations**

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice in the NCDWQ Central Office in Raleigh serves as application to the NCDWQ for certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ Central Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 Attention: Ms Cyndi Karoly by September 15, 2005.

### **Cultural Resources**

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

## **Endangered Species**

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps has determined pursuant to the Endangered Species Act of 1973, that the proposed project will have no effect on federally listed endangered or threatened species or their formally designated critical habitat.

## **Evaluation**

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

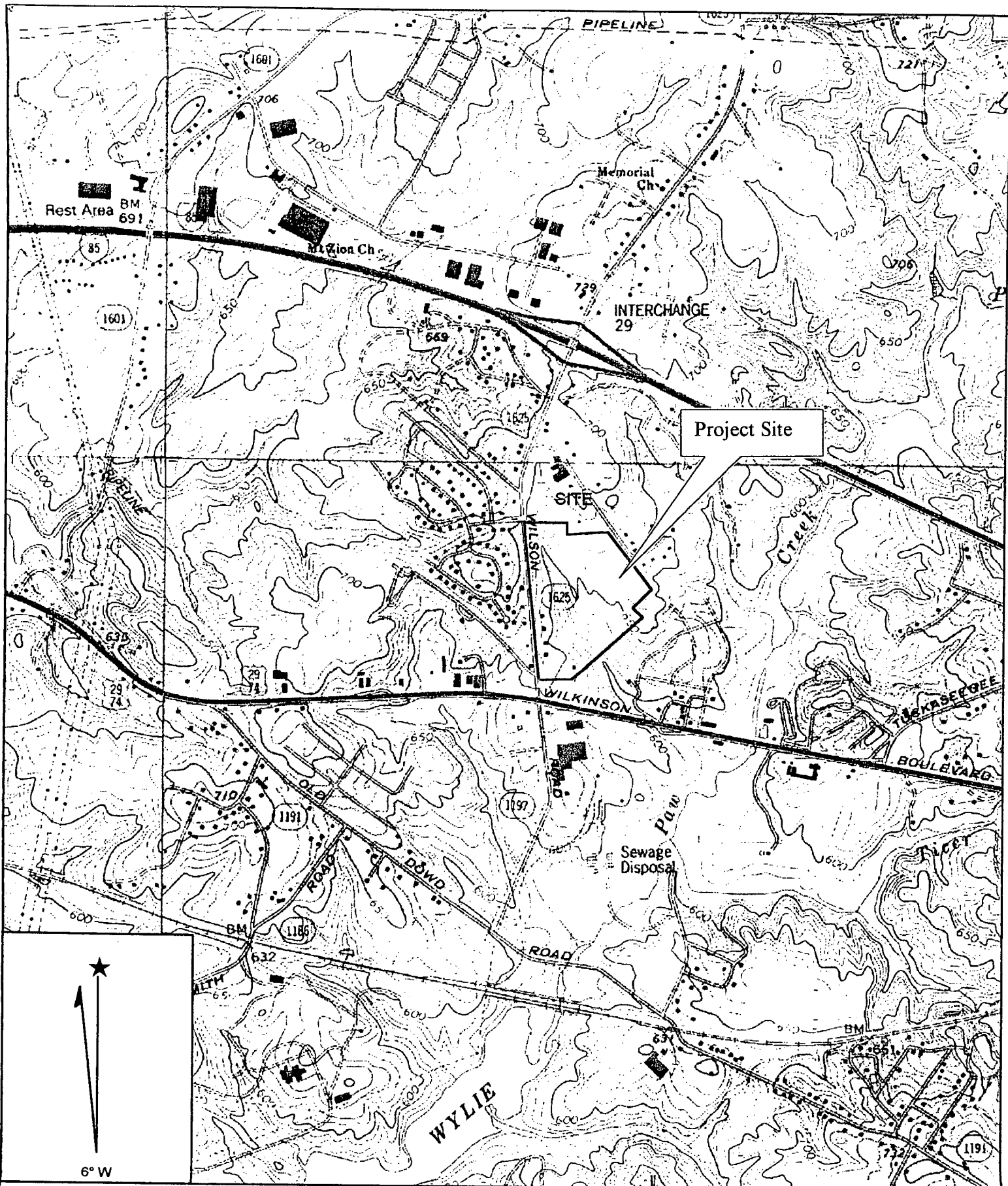
## **Commenting Information**

The Corps is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a

public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, September 15, 2005. Comments should be submitted to Amanda Jones, 151 Patton Avenue, Room 208, Asheville, NC 28801.

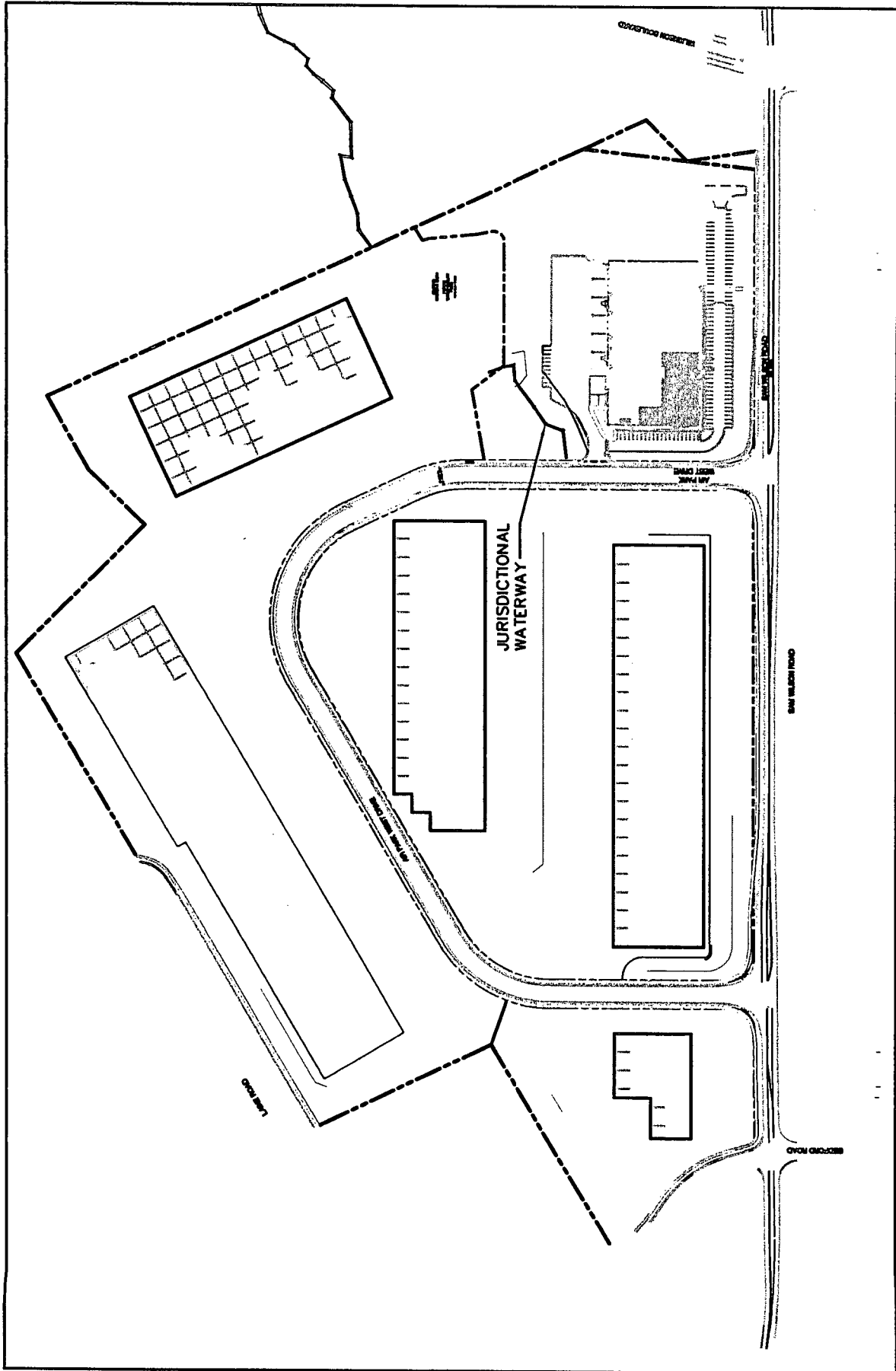




Name: CHARLOTTE WEST  
 Date: 3/26/101  
 Scale: 1 inch equals 1600 feet

Location: 035° 14' 42.5" N 080° 59' 07.5" W  
 Caption: Sam Wilson Road Site  
 Charlotte, North Carolina  
 Newkirk Environmental, Inc.

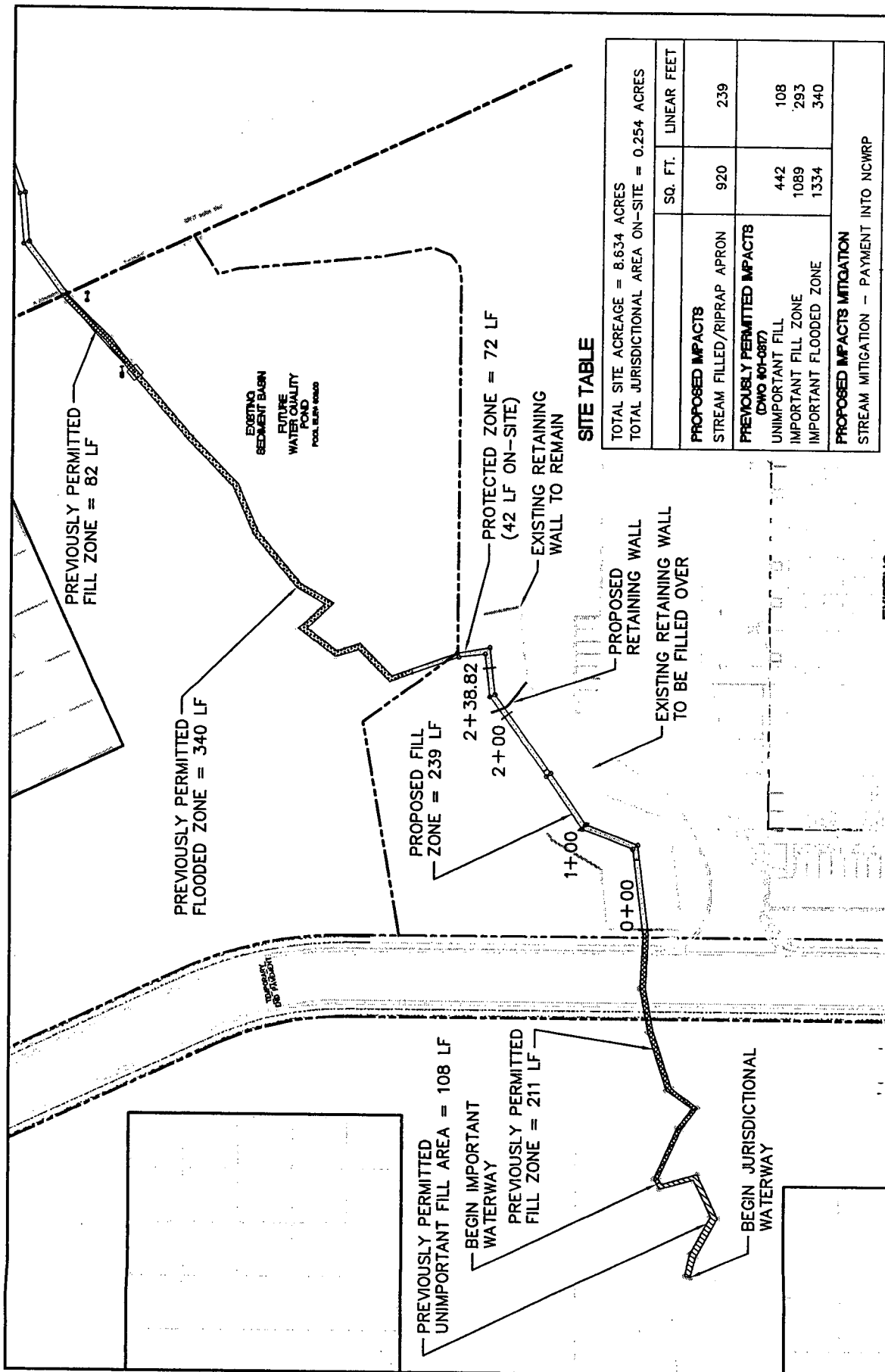
Copyright (C) 1997, Maptech, Inc.

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 <b>Cole Jenest &amp; Stone</b> Shaping the Environment Realizing the Possibilities Land Planning + Landscape Architecture Civil Engineering Urban Design 200 South Tryon Street, Suite 1400 Charlotte, NC 28202 P 704 376 7851 F 704 376 7851 www.colejeneststone.com	<b>AIR PARK WEST RETAINING WALL</b> <b>CRESCENT RESOURCES INC.</b>	<b>SITE PLAN</b>
Project No. 3250 Issued 07/28/05 Scale 1" = 300' Sheet	<b>WM1.0</b>	

200532783



**SITE TABLE**

TOTAL SITE ACREAGE = 8.634 ACRES TOTAL JURISDICTIONAL AREA ON-SITE = 0.254 ACRES		
PROPOSED IMPACTS	SQ. FT.	LINEAR FEET
STREAM FILLED/RIPRAP APRON	920	239
PREVIOUSLY PERMITTED IMPACTS (DWO 401-087)		
UNIMPORTANT FILL	442	108
IMPORTANT FILL ZONE	1089	293
IMPORTANT FLOODED ZONE	1334	340
PROPOSED IMPACTS MITIGATION		
STREAM MITIGATION - PAYMENT INTO NCWRP		

**CRESCENT RESOURCES INC.**

200 South Tryon Street, Suite 1400 Charlotte, NC 28202  
 704.376.7851 • 704.376.7851 • www.colejonestone.com

**ON-SITE WETLANDS MAP**

Project No. 3250  
 Issued 07/28/05  
 Scale 1" = 100' Sheet

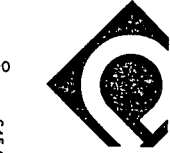
**AIR PARK WEST RETAINING WALL**

Charlotte Raleigh

**WM2.0**

200532783





**Coleman & Stone**

Showing the Foundation  
Noting the Foundation

Land Planning

Landscaping Architecture

Civil Engineering

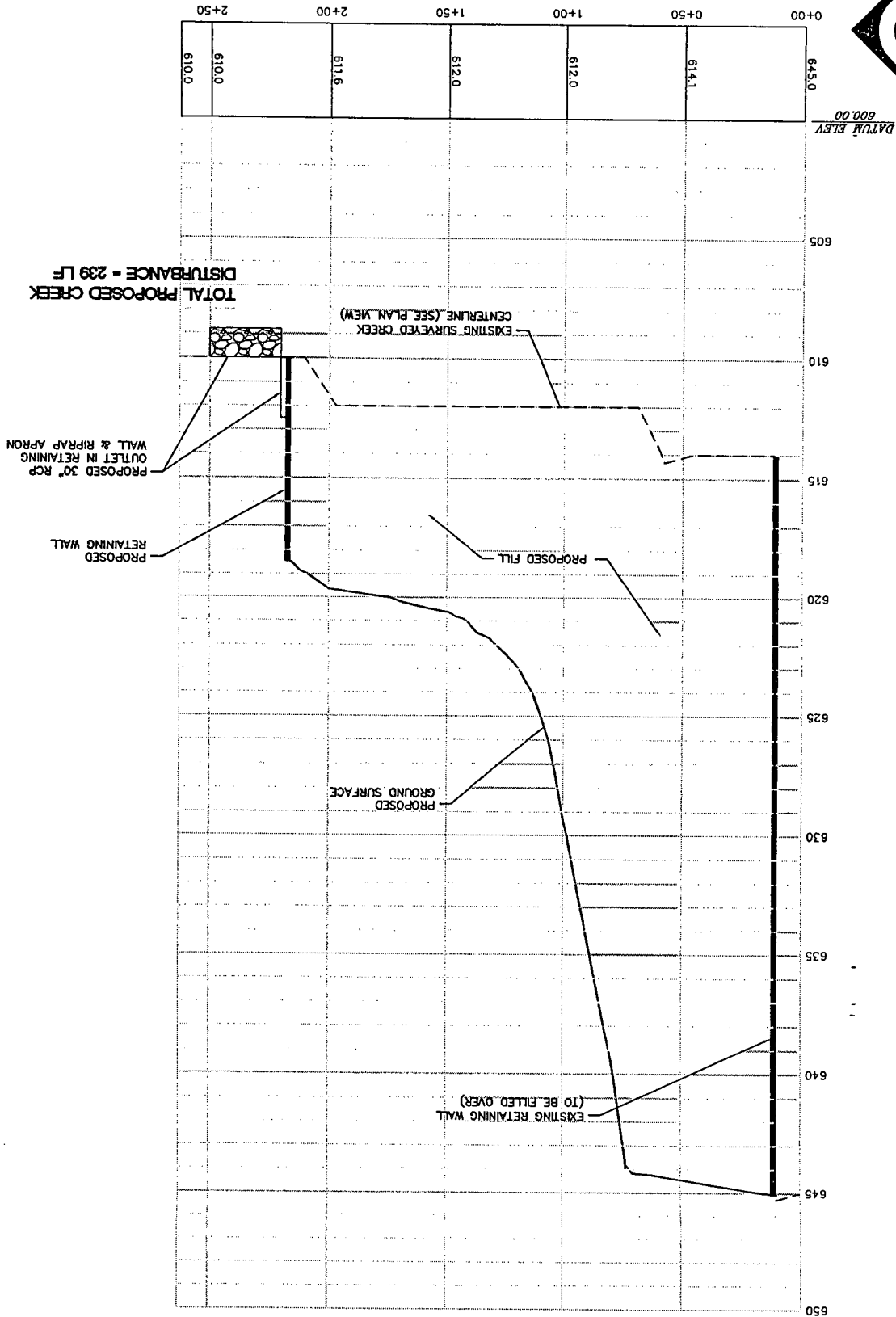
Urban Design

CRESCENT RESOURCES  
INC.

Project No. 3250 Issued 06/21/05

**AIR PARK WEST RETAINING WALL**  
**PROPOSED CREEK FILL: PROFILE**

HORIZ. SCALE: 1" = 40'  
VERT. SCALE: 1" = 4'



2005 32783